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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA

PLANNED PARENTHOOD  
 FEDERATION OF AMERICA, INC., et al.,

Plaintiff,

vs.

CENTER FOR MEDICAL PROGRESS, et  
 al.,

Defendants.

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Case No. 3:16-cv-00236-WHO

**DECLARATION OF RHONDA R.  
 TROTTER IN SUPPORT OF  
 PLAINTIFFS' MOTION FOR  
 ATTORNEYS' FEES AND NON-  
 STATUTORY COSTS**

Date: November 18, 2020

Time: 2:00 p.m.

Place: Courtroom 2, 17th Floor

Judge: Hon. William H. Orrick

1 I, RHONDA R. TROTTER, declare:

2 1. I am a partner in the firm Arnold & Porter Kaye Scholer, LLP (“A&P”),  
3 and one of the attorneys of record for Plaintiffs in the above-captioned action. I have  
4 personal knowledge of the facts stated in this declaration and, if called as a witness, I could  
5 and would testify competently to them.

6 2. I obtained my B.A. in Political Science from Stanford University in  
7 1989, and graduated from the University of California at Berkeley School of Law in 1993. In  
8 law school, I served as Senior Articles Editor of the *California Law Review* and a member of  
9 the Moot Court Board. I was the winner of the McBaine Moot Court Honors Program during  
10 my third year of law school, and received the *Am Jur* award for Civil Trial Advocacy. At  
11 graduation from Berkeley Law, I was awarded the Stephen Finney Jamison Award, given to  
12 the member of the graduating class who best exemplifies the attributes of scholarship and  
13 advocacy.

14 3. After graduating law school, I began work as a litigation associate at  
15 Steptoe & Johnson in Washington, D.C. In November 1994, I returned to California and  
16 joined Kaye Scholer Fierman Hays & Handler, LLP (“Kaye Scholer”) in Los Angeles as an  
17 associate. I second-chaired my first jury trial as a third year associate at Kaye Scholer,  
18 conducting direct and cross examinations of lay and expert witnesses in defending client  
19 Ferro Corporation in a breach of contract and environmental dispute. In March 2000, I joined  
20 Akin Gump Strauss Hauer & Feld LLP as a senior litigation associate, and was elevated to  
21 partnership at Akin Gump in January 2003. In July 2005, I returned to Kaye Scholer as  
22 Counsel, and was elevated to equity partnership in January 2007. I have remained a partner  
23 of Kaye Scholer, and its successor firm A&P since then.

24 4. Over the course of my career, I have litigated numerous complex  
25 matters in federal and state courts throughout the country, including lead roles in ten jury  
26 trials and two bench trials. I have served as first chair in seven of those trials, and second  
27 chair in the other five. In September 2019, one of my jury trial verdicts (in federal court in  
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1 the Southern District of New York) was inducted into the *New York Law Journal's* Hall of  
 2 Fame as the largest verdict in a contract case in 20 years (\$132 million). In 2016, I was  
 3 honored by the Century City Bar Association as Business Trial Lawyer of the Year.

4 5. It is my practice to timely record my time and tasks on a matter in the  
 5 firm's electronic billing system. In preparing this declaration, I carefully reviewed each of  
 6 my time entries in this matter as reflected in the firm's billing system. The statements in this  
 7 declaration regarding the number of hours I spent on various tasks related to this case are  
 8 based on my contemporaneous time records.

9 6. My standard hourly rate in 2019 was \$1,045, and in 2020 is \$1,150.

10 7. I became involved in the Planned Parenthood case in January 2019, just  
 11 prior to the commencement of depositions. Given my significant trial experience, I joined the  
 12 team to serve as lead trial counsel, and to lead the team in the development of overall case  
 13 strategy in anticipation of trial in the fall of 2019. The litigation had progressed significantly  
 14 prior to 2019, and in the initial weeks of my involvement, I spent considerable time reviewing  
 15 the case file and written discovery in order to get up to speed on the case. As Plaintiffs are  
 16 not seeking recovery of fees for this time, I personally reviewed and eliminated those time  
 17 entries from Plaintiffs' fees motion.

### 18 **PHASE III: DISCOVERY**

#### 19 *Fact Depositions.*

20 8. I played a substantial role in the development of deposition strategy,  
 21 including identifying witnesses to depose, identifying witnesses to serve as Plaintiffs'  
 22 30(b)(6) witnesses, and developing strategies for the taking and defense of depositions. Given  
 23 my role as lead trial counsel, I participated in many of the deposition prep sessions with  
 24 Plaintiffs' witnesses for whom other team members had principal responsibility, including  
 25 Gene Boyett, Kevin Paul and Deborah Nucatola.

26 9. I personally prepared and defended the following fact witnesses: Linda  
 27 Pahl (PPLA), and Jenna Tosh (PPCCC). I personally prepared for and took the deposition of  
 28

1 David Daleiden, in his personal capacity and as the 30(b)(6) designee of the Center for  
2 Medical Progress.

3 10. As is my standard practice, in preparing for the defense of depositions, I  
4 reviewed key documents in advance of witness preparation sessions, refined the deposition  
5 preparation outlines prepared by an associate, and conducted multiple deposition preparation  
6 sessions with the deponents, some in person and some telephonically, over multiple days. As  
7 is my practice, I spend significantly more time preparing 30(b)(6) witnesses, to ensure that  
8 they are prepared for a variety of topics for which they may not have personal knowledge. In  
9 this case, Defendants' 30(b)(6) notices contained multiple topics and subtopics, requiring  
10 more than the usual amount of witness preparation time.

11 11. For the taking of the two-day deposition of David Daleiden  
12 (individually and for CMP), I spent considerable preparation time over several days  
13 reviewing and analyzing documents produced in discovery and written discovery responses,  
14 and working with associate Diana Sterk to refine the extensive deposition outline.

15 *Expert Depositions.*

16 12. I also participated in expert depositions. I personally took the  
17 deposition of Theresa Deisher (designated by Defendants as an expert witness, but who also  
18 had contact with Mr. Daleiden during the relevant time period), and defended the depositions  
19 of Dr. Jennifer Kerns and security expert Danny Coulson, including preparation sessions with  
20 each of them. During trial, I also prepared for and took the deposition of Defendants'  
21 proffered expert witness Janet Smith, who, based on the deposition, Plaintiffs successfully  
22 excluded at trial.

23 13. Collectively, my fact and expert witness discovery involvement  
24 accounts for approximately 410 hours.

25 **PHASE FIVE: SUMMARY JUDGMENT**

26 14. I participated in team strategy discussions concerning the parties' cross-  
27 motions for summary judgment, was principal drafter of Plaintiffs' opposition to Defendants'  
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1 motion to strike Plaintiffs' corrected interrogatories identifying the illegally-made recordings,  
2 reviewed drafts of the Plaintiffs' opposition and reply summary judgment briefing, and  
3 prepared for and handled portions of the hearing on the motions. I spent a total of  
4 approximately 150 hours on these tasks. In the exercise of billing judgment, Plaintiffs are not  
5 seeking to recover for 60% of this time.

6 **PHASE SIX: PRE-TRIAL**

7 15. I was heavily involved in all aspects of pre-trial preparation, including  
8 managing the team and leading strategy meetings, the retention of and preparatory work with  
9 Plaintiffs' jury consulting firm (JuryScope), preparing for and presenting Plaintiffs' case at  
10 the mock jury exercise, reviewing and revising proposed jury instructions and the proposed  
11 verdict form, drafting the juror questionnaire and voir dire questions, reviewing and revising  
12 Plaintiffs' trial exhibit list (with staff attorney Meghan Martin), reviewing Defendants' trial  
13 exhibits and preparing objections to the same, developing (with Amy Bomse) Plaintiffs' trial  
14 witness list, witness order, and team division of witnesses, reviewing and revising the parties'  
15 Joint Pre-Trial Order, and preparing for and participating in pre-trial conferences. In the  
16 weeks leading up to trial, I prepared and refined Plaintiffs' opening statement, worked with  
17 JuryScope in preparation for jury selection, prepared and revised various witness outlines,  
18 and worked with consultants on the development of trial graphics. Collectively, I spent  
19 approximately 550 hours during the pre-trial period.

20 **PHASE VII: TRIAL**

21 16. As the Court is aware, I served as lead trial counsel at trial, with other  
22 members of the trial team having very significant roles and responsibilities for witnesses. I  
23 was principally responsible for jury selection (with the assistance of JuryScope), and prepared  
24 for and gave Plaintiffs' opening statement. I prepared for and conducted the adverse direct of  
25 key witness David Daleiden, a difficult and contentious four day examination. I continued to  
26 lead the trial team in strategy sessions throughout the six-week span of the trial, and  
27 participated in several trial witness prep sessions. Finally, I prepared and gave the liability  
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1 portion of Plaintiffs' closing argument, working with the team on strategy and development  
2 of graphics for the closing argument. The above amounts to approximately 450 hours during  
3 the six-week trial period, working seven days a week and often more than 12 hours per day.

4 **PHASE VIII: POST-TRIAL**

5 17. After the jury's verdict, I participated in team strategy meetings on the  
6 injunctive relief briefing, and reviewed and commented on the draft proposed judgment and  
7 draft injunctive relief briefs. I also participated in team strategy calls regarding Defendants'  
8 Rule 50 motions and Defendants' motion to stay enforcement of judgment. I revised sections  
9 of Plaintiffs' opposition brief on the Rule 50 motions, including the section regarding PPGC's  
10 expectation of privacy, and analyzed issues related to enforcement of the judgment. I spent a  
11 total of approximately 40 hours on these post-trial tasks.

12 **PHASE IX: FEES MOTION**

13 18. I have participated in team calls regarding this attorneys' fees motion,  
14 and prepared this declaration. In addition, I have reviewed and revised Plaintiffs' bill of  
15 costs, as well as the section of the Bomse declaration addressing non-statutory costs.  
16 Collectively, I have spent approximately 10 hours on the fees motion.

17 I declare under penalty of perjury under the laws of the United States that the  
18 foregoing is true and correct. Executed this 16th day of September, 2020 in Los Angeles,  
19 California.

20 /s/ Rhonda R. Trotter

21 RHONDA R. TROTTER  
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**ECF ATTESTATION**

In accordance with Civil Local Rule 5-1(i)(3), I attest that concurrence in the filing of this document has been obtained from the signatory.

Dated: September 18, 2020

/s/ Steven L. Mayer  
Steven L. Mayer